

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on March 2, 1999 at 3:00 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Ken Miller, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Chris Christiaens (D)
Sen. Dorothy Eck (D)
Sen. Bill Glaser (R)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)
Sen. J.D. Lynch (D)
Sen. Dale Mahlum (R)

Members Excused: Sen. Jon Tester (D)

Members Absent: None.

Staff Present: Jodi Pauley, Committee Secretary
Mary Vandenbosch, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 99, 2/28/1999; HB 212,
2/28/1999; HB 151, 2/28/1999
Executive Action: HB 151; HB 99

Discussion:

CHAIRMAN MIKE SPRAGUE discussed a letter relative to the CI-75 issue from Greg Petesch. **EXHIBIT (los47a01)**

Mary Vandenbosch also explained this letter. **EXHIBIT (1)**

Motion/Vote: SEN. LYNCH made a generic motion **TO TABLE ALL BILLS DEALING WITH CI-75. Motion carried unanimously 10-0.**

SEN. JOHN BOHLINGER took over the chair.

HEARING ON HB 99

Sponsor: REP. TONI HAGENER, HD 90, Havre

Proponents:

Alec Hansen, League of Cities and Towns

Opponents: None

Opening Statement by Sponsor:

REP. TONI HAGENER, HD 90, Havre, said this bill is to move up and clarify the dates for the notice of delinquency for sewer charges so they can be included in the October tax notices. The law currently provides the local governments with the authority to charge for services and requires consumers to pay for those services. Sewer pipes, lines and processing plants cost money to install, maintain, and improve. Local governments can send out bills at regular intervals and if those bills are not paid, often times the only way to collect that delinquency is by putting them on the October tax bill. Fees not paid increase the cost for those who do pay. Line 21 states there is the 30 day notice and she read lines 27-28. This is a clarification and a way to move things along faster.

Proponents' Testimony:

Alec Hansen, League of Cities and Towns, said by waiting until the August 15th deadline which is past the time that the tax levy is certified by the county, the county can refuse to include these delinquent notices on the tax bills for the following year. They have to wait an entire year and will end up having two years of delinquency. It changes the date to July 7th and provides a 30 day notice.

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. HAGENER closed on HB 99.

{Tape : 1; Side : A; Approx. Time Counter : 3:14 p.m.}

HEARING ON HB 212

Sponsor: REP. TONI HAGENER, HD 90, Havre

Proponents:

Jane Jelinski, MT Assoc. of Counties

Tim Burton, Chief Administrative Officer of Lewis and Clark Co.

Kathy McGowan, Heart, Lung and Cancer

Opponents:

David O'Connell, Self

Opening Statement by Sponsor:

REP. TONI HAGENER, HD 90, Havre, said the governing body of any public building has the responsibility of the health and safety of employees, visitors, etc. Local governments contain offices for elected and appointed officials. In this Capitol, the State Administration has ruled there will be no smoking in this building except in designated areas. Local governments are simply asking for that same authority to designate smoking and non-smoking areas in public buildings. County Commissioners have the overall responsibility of protecting the health and safety of employees, visitors, and property of that building.

Proponents' Testimony:

Jane Jelinski, MT Assoc. of Counties, said this is an issue of resource allocation. She said in Gallatin County they did not have enough space to have a room to immunize children, but they had to have a room set aside for the ten employees that smoked.

Tim Burton, Chief Administrative Officer of Lewis and Clark Co., said they are asking for the same authority to manage their buildings as state government and cities have. He said they have had grievances filed by people that were bothered by smoke in the building, and health insurance ramifications. The Lewis and Clark Court House was the first place that the Legislature met and is an old building and it is not easy to create good ventilation.

Kathy McGowan, Heart, Lung and Cancer, said they enjoy clean lungs.

Opponents' Testimony:

David O'Connell, Self, opposed HB 212. **EXHIBIT**(los47a02)

{Tape : 1; Side : A; Approx. Time Counter : 3:25 p.m.}

Questions from Committee Members and Responses:

SEN. LYNCH asked in a consolidated government who would be the governing body, the Chief Executive, Council of Commissioners, etc.? **REP. HAGENER** said it would probably go to the Chief Executive officer and then it would go to the board.

CHAIRMAN SPRAGUE asked if this bill would provide smoking areas. **REP. HAGENER** said yes it gives that leeway.

CHAIRMAN SPRAGUE said the testimony is confusing because they are saying they don't want any areas provided for smokers. **REP. HAGENER** read lines 22-23 that the building could be smoke free, but if they wanted to they could provide a smoking area. This is micro-managing.

SEN. LYNCH said they are deleting the present law that states if there is seven or more people they shall provide a smoking area.

CHAIRMAN SPRAGUE asked when they were negotiating with public employees where those agreements made in their contract. **David O'Connell** said the breaks are on the employers time and they have control of where the employee can go and what they can do. It was a past practice to have a smoking area, but now they want to do away with that.

CHAIRMAN SPRAGUE said in the Billings courthouse they provide a smoking area and is it only set up for the employees and the public is not invited? **David O'Connell** said yes this is basically how it is set up. The people only want an enclosed room, no one wants to go out in 40 below zero weather, fall on the ice and then they can turn around and sue the county.

SEN. GRIMES asked if this bill will prevent negotiation of smoking areas. **Tim Burton** said yes.

SEN. GRIMES said there were some allegation that Lewis and Clark County Commissioners would not negotiate and is this true. **Tim Burton** said this was not his understanding. They had grievances filed based upon the fact that there was a smoking room. Offices next door were being bothered by the smoke. He said at the same time there was publication that second hand smoke causes cancer.

He said they found out they were not in compliance with the law by not providing a smoking room and they provided a smoking room again.

SEN. CHRIS CHRISTIAENS said in Montana State Prison and other regional prisons they are totally smoke free. He said there has never been any unfair labor practice suits filed in these areas. **David O'Connell** said when he filed the unfair labor practice suit, they did provide a fan that cost between \$1500 to \$2500 and vented it to the outside.

SEN. CHRISTIAENS asked how are they breaking the law. **David O'Connell** said under current law when they made the decision to make it a smoke free building they are breaking the law.

SEN. DOROTHY ECK asked how have counties around the state responded to this because most have more than seven employees who smoke and have they been able to provide an acceptable smoking area. **Jane Jelinski** said counties are setting aside work space for smoking to be in compliance with the law. It seems to be such a "no-brainer" that this frugal legislature spends money where they don't need to and requires counties to provide employees some place to sit down and smoke. The law needs to be changed when counties do not have the resources and are struggling as the current law is written.

SEN. ECK said this doesn't refer to what kind of requirements there are for a smoking area. **Jane Jelinski** said she didn't know for sure.

SEN. MAHLUM asked if they would be satisfied if public buildings had a smoking room in them that was ventilated. **David O'Connell** said yes.

SEN. LYNCH said this bill would give them an option to provide a smoking room.

CHAIRMAN SPRAGUE said the current law is they have to provide a smoking room. But this bill says the governing body has the right to exclude smoking from that building.

{Tape : 1; Side : A; Approx. Time Counter : 3:44 p.m.}

ACTING CHAIRMAN BOHLINGER said there was a petition circulating among employees of Lewis and Clark County and many people refused to sign it in fear of retribution. What kind of retribution are they talking about, is it losing their jobs. **David O'Connell** said yes.

ACTING CHAIRMAN BOHLINGER asked what is the policy for people signing petitions and surely they wouldn't dismiss people for exercising their right to protest. **Tim Burton** said he has never seen this petition and not a single employee in Lewis and Clark County has been disciplined in any form or fashion relative to smoking in the smoking room.

SEN. ECK said the present law is for seven or more employees and are there buildings where fewer than seven employees work. **Tim Burton** said yes there are outlying road departments where they only have two people, etc.

SEN. ECK asked if they are not required to provide a smoking area in those buildings. **Tim Burton** said that was correct.

SEN. GRIMES asked why no one was present from the union. **David O'Connell** said they have members that are both smokers and non-smokers.

Closing by Sponsor:

REP. HAGENER said this bill says they "may" establish a smoke free building or smoking and non-smoking areas. She read line 20 and line 22. There are 55 other counties with court houses besides Lewis and Clark that are considerably smaller, and they have a very limited budget. County Commissioners need to be concerned about being sued for causing cancerous conditions, etc.

HEARING ON HB 151

Sponsor: **REP. JOHN WITT, HD 89, Carter**

Proponents:

Jane Jelinski, MACo
Charles Brookes, Yellowstone Co.
Gordon Morris, MACo

Opponents: None

Opening Statement by Sponsor:

REP. JOHN WITT, HD 89, Carter, said this bill will allow counties to elect a county attorney from a neighboring county.

Proponents' Testimony:

Jane Jelinski, MACo, said there are two counties that have consolidated county attorney offices and this is a house keeping bill.

Charles Brookes, Yellowstone Co., supported the bill.

Gordon Morris, MACo, said in current law they can't consolidate the county attorney's office. This lets the counties cooperatively consolidate their county attorney with another county.

{Tape : 1; Side : B; Approx. Time Counter : 3:55 p.m.}

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. ECK asked if there are county offices by law that they can consolidate among counties. **Gordon Morris** said yes, Clerk and Recorder can be combined with the Treasurer, etc.

SEN. ECK asked how many others allow them to consolidate with another county. **Gordon Morris** said there are five or six counties that have consolidated the county superintendent with their Clerk of Court or with their Clerk and Recorder. And they contract with neighboring counties.

CHAIRMAN SPRAGUE asked what specific duties are they going to consolidate. **Gordon Morris** said this deals specifically with county attorneys. He said this would allow them to elect on a two or three county basis within that region. This person would have to be elected within both of the counties.

ACTING CHAIRMAN BOHLINGER asked if under present law there is residency requirements and under this bill will that be removed. **Gordon Morris** said yes, they could live in county A and run in county B.

Closing by Sponsor:

REP. WITT said Petroleum County has 600 residents and they could contract or elect the person that has filed in Fergus County.

CHAIRMAN SPRAGUE took over the chair.

EXECUTIVE ACTION ON SB 454

Discussion:

Mary Vandenbosch said any money that is made on this ranch has to go back into the operation because they have an enterprise fund. This money cannot come out of the enterprise fund in lieu of taxes.

SEN. CHISTIAENS said it could be taken care of in HB 2 and it could come out of the overall general operating budget.

SEN. HARGROVE said this affects the General Fund and there needs to be a Fiscal Note.

EXECUTIVE ACTION ON HB 151

Motion/Vote: **SEN. LYNCH** moved HB 151 BE CONCURRED IN. Motion carried unanimously 10-0.

EXECUTIVE ACTION ON HB 99

Motion: **SEN. GLASER** moved HB 99 BE CONCURRED IN.

Discussion:

Mary Vandenbosch said on line 7 it talks about a water service assessment list and this section of law doesn't deal with that.

SEN. GLASER withdrew his motion.

ADJOURNMENT

Adjournment: 4:07 P.M.

SEN. MIKE SPRAGUE, Chairman

JODI PAULEY, Secretary

MS/JP

EXHIBIT (los47aad)